

## **REMARKS**

### ***Status of the Claims***

Claims 28-36 and 38-44 are presently pending in this application. Claims 28-30, 32-33, 36, 38-40, and 43-44 stand as rejected under 35 USC § 102(b). Claims 31, 34, 35, 41, and 42 are objected to as being dependent on a rejected base claim.

### ***Claim rejections***

Claims 28-30, 32-33, 36, 38-40, 43-44 are rejected pursuant to 35 USC § 102(b) as unpatentable over US 5,854,309 of Blount (“Blount”). Applicants respectfully disagree. The claims are all novel in light of Blount at the least because the reference does not disclose a pesticidal composition having the phosphonic acid chelates as required by the pending claims.

Claim 28, the sole independent claim, is directed to a pesticidal composition that has two components – a first component that is a *phosphonic* acid chelating agent, a metal complex of a *phosphonic* acid chelating agent, a *phosphonic* acid chelating agent combined with a metal salt, and mixtures thereof, and a second component that comprises a dry food source effective as a bait edible to pests. The claims further require that the pesticidal composition be effective to kill pests upon ingestion.

The Blount reference, which is entirely different, is directed to a flame-retardant composition that is based on amino condensation products. The Examiner appears to be confused by the fact that the Blount reference describes a process for making its amino condensation flame retardant material. Blount describes a process for making this flame retardant end product using up to three different reactants. Clearly, the reactants are consumed during the chemical reaction, yielding only the desired amino condensation products. These amino condensation products are not one of: a phosphonic acid chelating agent, a metal complex of a phosphonic acid chelating agent, or a phosphonic acid chelating agent combined with a metal salt.

Although, as the Examiner notes, Blount discloses using certain phosphorous compounds, these are merely reactants and not the end product. The reactants used by Blount to obtain its flame retardant include urea, nitrogen compounds that condense or react with urea, and organic phosphorous compounds that react with a melted amino compound. Blount

specifically states that the phosphorous compounds have to *react* to form the desired end point compound -- an amino condensation salt:

The amino condensation salts of phosphorous compounds are produced by contacting the amino condensation compounds with a phosphorus containing compound that will react with an amino compound under conditions sufficient to prepare an amino condensation salt of a phosphorous containing compound.

(column 3, lines 61-65).

Following the reaction, the amino condensation product results, and this product is used in flame retardant compositions such as polyurethane foams. Regardless of whether any phosphorous containing compound is used as a *reactant* to form the amino condensation product, the *end product* does not contain a *phosphonic* acid chelating agent, a metal complex of a *phosphonic* acid chelating agent, a *phosphonic* acid chelating agent combined with a metal salt. There is also no dry food source effective as a bait edible to pests, and the product is not a pesticide.

The claimed invention is clearly different than what is disclosed by Blount, and Blount cannot anticipate any of claims 28-36 and 38-44 because it does not identically disclose the claimed composition. Accordingly, Applicant respectfully requests that the claim rejections be withdrawn

### ***Conclusion***

In view of the foregoing remarks, Applicant submits that all pending claims are in condition for allowance, and allowance is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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